HIGH COURT OF CHHATTISGARH AT BILASPUR

Second Appeal No.244/2007

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Single Bench: **Hon'ble Shri Dilip Raosaheb Deshmukh, J.**

Appellant (Plaintiff)		Shatruhan, S/o. Siya Ram Sonkar; aged about 58 years; resident of village - Arjun; Tajsil - Dongargarh; District Rajnandgaon (CG)
		Versus
Respondents (Defendants)	1.	Smt. Kanti Bai, wife of "unknown" [Since Deep Chand; as per Ex.P/5 and other materials vide C.S.No. 17-A/2001, of 2nd C.J.II Rajnandgaon]; aged about 38 years.
	2.	Santosh Kumar, Son of Unknown [Since Deep Chand; as per Ex.P/5 and other materials vide C.S.No. 17-A/2001, of 2nd C.J.II Rajnandgaon]; aged about 17 years; minor through Guardian mother Smt. Kanti Bai; (Both resident of Village – Arjuni, Tahsil – Dongargarh; District – Rajnandgaon (CG)

Second Appeal under Section 100 of Code of Civil Procedure 1908.

Present:-
Shri R.N. Jha, counsel for the appellant.

ORAL ORDER

(Passed on 30th July, 2007)

Heard on admission.

(2) Also heard on I.A. No.1 for taking document on record.

(3) Considered and allowed. Document is taken on record.

(4) The appellant is aggrieved by the judgment and decree dated 24.2.2007 passed in civil appeal No.21-A/2004 by the Ist Additional District Judge, Rajnandgaon, whereby while affirming the judgment and decree passed by the IInd Civil Judge, Class-II, Rajnandgaon in civil Suit No. 17-A/2001 dated 23.06.2004, the appeal was dismissed.

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(5) Brief facts are that filing of an application by the respondent/defendant No.2, minor son of the appellant/plaintiff for grant of maintenance led to the filing of civil suit No.17-A/2001 before the IInd Civil Judge, Class-II, Rajnandgaon for declaration that Santosh Kumar was not the son of the appellant/plaintiff. The trial Court has recorded a finding that the appellant/plaintiff, being the father of the respondent/defendant No.2 Santosh Kumar was not entitled to the relief sought for. Appeal preferred against the said judgment and decree has also been dismissed. Both the Courts below have recorded finding against the appellant/plaintiff on the basis of the following facts:-

A/ Long cohabitation between the appellant/plaintiff and the respondent No.1 Smt Kanti Bai.

B/ Documentary evidence to support such relationship between the appellant/plaintiff and the respondentNo.1/defendant.

C/ Documentary evidence in the nature of public documents i.e. birth certificate and mark list showing the appellant/plaintiff as the father of the respondent /defendant No.2 as also the date of birth of respondent/defendant No.2 being 15.1.1990

(6) Both the Courts below have, upon proper appreciation of evidence oral as well as documentary and upon strong preponderance of probability held that respondent/defendant No.2 is the son the appellant/plaintiff and refused to grant the relief sought for by the appellant/plaintiff.

(7) I am of the considered opinion that no substantial question of law arises for determination in this appeal, which is accordingly dismissed at the stage of admission. There shall be no order as to costs.

Sd/-
Dilip Raosaheb Deshmukh
Judge